



DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice includes the summaries of three petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit your comments including the docket number of the petition by any of the following methods:

1. Electronic Mail: zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.

2. Facsimile: 202-693-9441.

3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452,

Attention: Jessica D. Senk, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401.

Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Jessica Senk, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), Senk.Jessica@dol.gov (email), or 202-693-9441 (facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2021-022-C

Petitioner: Buchanan Minerals, LLC, 1636 Honaker Branch Road, Oakwood, Virginia (Zip 24639)

Mine: Buchanan No. 1 Mine, MSHA ID No. 44-04856, located in Buchanan County, Virginia

Regulation Affected: 30 CFR 75.507-1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 75.507-1(a), as it relates to the use of an alternative method of respirable dust protection for

miners at the Buchanan No. 1 Mine in Virginia. Specifically, the petitioner is applying to use a battery powered respirable protection unit called the CleanSpace EX Powered Respirator (CleanSpace EX) in return air outby the last open crosscut.

The petitioner states that:

- (a) The petitioner is seeking an alternative to the 3M Airstream helmet to provide miners with respirable protection against coal mine dust, a protection that can provide long-term health benefits.
- (b) The 3M Airstream helmet has been used in mines for over 40 years.
- (c) 3M has recently faced component disruptions for the Airstream product. 3M globally discontinued the Airstream on June 1, 2020. The ability to order an Airstream system and components ended in February 2020. Components were available through June 2020.
- (d) Currently, there are no available replacement positive pressure air-purifying respirators (PAPRs) that meet the MSHA standard for permissibility.
- (e) PAPRs provide a constant flow of filtered air, which offers respiratory protection and comfort in hot working environments.
- (f) Operators that were using the Airstream, do not have an approved alternative to provide this type of protection to its miners.
- (g) The CleanSpace EX is UL certified to the ANSI/UL 60079-11 standard and can be used in hazardous locations because it meets the intrinsic safety protection level and is acceptable in other jurisdictions to use in mines with the potential for methane accumulation.
- (h) The CleanSpace EX is not MSHA-approved and the manufacturer is not pursuing approval.
- (i) The ANSI/UL standards for the approval of these respirators are an accepted alternative to MSHA standards and provide the same level of protection.

- (j) The product uses a lithium polymer battery that is not detachable from the electrical circuit. It charges as a complete unit.
- (k) The CleanSpace EX allows for more comfort and it can be easily disassembled and cleaned.
- (l) The CleanSpace EX has a NIOSH-approved high-capacity high-efficiency particulate air (HEPA)/vapor filter for a half mask and a HEPA particulate filter for the full facemask. The product does not impair vision or communication. The product allows for the miner to simultaneously wear the issued hardhat with a headlamp.
- (m) The CleanSpace EX uses technology placing the filter housing and fan assembly above the shoulders to reduce ergonomic restrictions, freeing the miner from having to wear the fan and filter unit around the waist.
- (n) There are no hose attachments to the unit, which could create added hazards.

The petitioner proposes the following alternative method:

- (a) The equipment will be examined at least weekly by a qualified person according to 30 CFR 75.512 and examination results will be recorded weekly and records will be available for examination for one year.
- (b) CleanSpace EX units will be charged out by the last open crosscut and will utilize the manufacturer approved battery charger.
- (c) A qualified person under 30 CFR 75.151 will monitor for methane as is required by the standard in the affected areas of the mine.
- (d) Employees will be trained on how to properly use and take care of the CleanSpace EX according to manufacturer guidelines.
- (e) Qualified miners will receive training regarding the information in the Decision and Order before using the equipment in the relevant part of the mine. A record of the training will be kept and available upon request.

(f) Within 60 days of the Decision and Order becoming finalized, the petitioner will submit proposed revisions to 30 CFR 75.370, mine ventilation, to be approved under the 30 CFR part 48 training plan by the Coal Mine Safety and Health District Manager. The revisions will specify initial and refresher training. When the training is conducted, the MSHA Certificate of Training (Form 5000-23) will be completed. Comments will be made on the certificate to note non-permissible testing equipment training.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Docket Number: M-2021-023-C

Petitioner: Buchanan Minerals, LLC, 1636 Honaker Branch Road, Oakwood, Virginia (Zip 24639)

Mine: Buchanan No. 1 Mine, MSHA ID No. 44-04856, located in Buchanan County, Virginia

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment)

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 75.500(d), as it relates to the use of an alternative method of respirable dust protection for miners at the Buchanan No. 1 Mine in Virginia. Specifically, the petitioner is applying to use a battery powered respirable protection unit called the CleanSpace EX Powered Respirator (CleanSpace EX) in or inby the last open crosscut.

The petitioner states that:

- (a) The petitioner is seeking an alternative to the 3M Airstream helmet to provide miners with respirable protection against coal mine dust, a protection that can provide long-term health benefits.
- (b) The 3M Airstream helmet has been used in mines for over 40 years.

- (c) 3M has recently faced component disruptions for the Airstream product. 3M globally discontinued the Airstream on June 1, 2020. The ability to order an Airstream system and components ended in February 2020. Components were available through June 2020.
- (d) Currently, there are no available replacement positive pressure air-purifying respirators (PAPRs) that meet the MSHA standard for permissibility.
- (e) PAPRs provide a constant flow of filtered air, which offers respiratory protection and comfort in hot working environments.
- (f) Operators that were using the Airstream do not have an approved alternative to provide this type of protection to its miners.
- (g) The CleanSpace EX is UL certified to the ANSI/UL 60079-11 standard and can be used in hazardous locations because it meets the intrinsic safety protection level and is acceptable in other jurisdictions to use in mines with the potential for methane accumulation.
- (h) The CleanSpace EX is not MSHA-approved and the manufacturer is not pursuing approval.
- (i) The ANSI/UL standards for the approval of these respirators are an accepted alternative to MSHA standards and provide the same level of protection.
- (j) The product uses a lithium polymer battery that is not detachable from the electrical circuit. It charges as a complete unit.
- (k) The CleanSpace EX allows for more comfort and it can be easily disassembled and cleaned.
- (l) The CleanSpace EX has a NIOSH-approved high-capacity high-efficiency particulate air (HEPA)/vapor filter for a half mask and a HEPA particulate filter for the full facemask. The product does not impair vision or communication. The product allows for the miner to simultaneously wear the issued hardhat with a headlamp.

- (m) The CleanSpace EX uses technology placing the filter housing and fan assembly above the shoulders to reduce ergonomic restrictions, freeing the miner from having to wear the fan and filter unit around the waist.
- (n) There are no hose attachments to the unit, which could create added hazards.

The petitioner proposes the following alternative method:

- (a) The equipment will be examined at least weekly by a qualified person according to 30 CFR 75.512 and examination results will be recorded weekly and records will be available for examination for one year.
- (b) CleanSpace EX units will be charged out by the last open crosscut and will utilize the manufacturer approved battery charger.
- (c) A qualified person under 30 CFR 75.151 will monitor for methane as is required by the standard in the affected areas of the mine.
- (d) Employees will be trained on how to properly use and take care of the CleanSpace EX according to manufacturer guidelines.
- (e) Qualified miners will receive training regarding the information in the Decision and Order before using the equipment in the relevant part of the mine. A record of the training will be kept and available upon request.
- (f) Within 60 days of the Decision and Order becoming finalized, the petitioner will submit proposed revisions to 30 CFR 75.370, mine ventilation, to be approved under the 30 CFR part 48 training plan by the Coal Mine Safety and Health District Manager. The revisions will specify initial and refresher training. When the training is conducted, the MSHA Certificate of Training (Form 5000-23) will be completed. Comments will be made on the certificate to note non-permissible testing equipment training.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Docket Number: M-2021-024-C

Petitioner: Buchanan Minerals, LLC, 1636 Honaker Branch Road, Oakwood, Virginia (Zip 24639)

Mine: Buchanan No. 1 Mine, MSHA ID No. 44-04856, located in Buchanan County, Virginia

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 30 CFR 75.1002(a), as it relates to the use of an alternative method of respirable dust protection for miners at the Buchanan No. 1 Mine in Virginia. Specifically, the petitioner is applying to use a battery powered respirable protection unit called the CleanSpace EX Powered Respirator (CleanSpace EX) within 150 feet of pillar workings and longwall faces.

The petitioner states that:

- (a) The petitioner is seeking an alternative to the 3M Airstream helmet to provide miners with respirable protection against coal mine dust, a protection that can provide long-term health benefits.
- (b) The 3M Airstream helmet has been used in mines for over 40 years.
- (c) 3M has recently faced component disruptions for the Airstream product. 3M globally discontinued the Airstream on June 1, 2020. The ability to order an Airstream system and components ended in February 2020. Components were available through June 2020.
- (d) Currently, there are no available replacement positive pressure air-purifying respirators (PAPRs) that meet the MSHA standard for permissibility.
- (e) PAPRs provide a constant flow of filtered air, which offers respiratory protection and comfort in hot working environments.

- (f) Operators that were using the Airstream, do not have an approved alternative to provide this type of protection to its miners.
- (g) The CleanSpace EX is UL certified to the ANSI/UL 60079-11 standard and can be used in hazardous locations because it meets the intrinsic safety protection level and is acceptable in other jurisdictions to use in mines with the potential for methane accumulation.
- (h) The CleanSpace EX is not MSHA approved and the manufacturer is not pursuing approval.
- (i) The ANSI/UL standards for the approval of these respirators are an accepted alternative to MSHA standards and provide the same level of protection.
- (j) The product uses a lithium polymer battery that is not detachable from the electrical circuit. It charges as a complete unit.
- (k) The CleanSpace EX allows for more comfort and it can be easily disassembled and cleaned.
- (l) The CleanSpace EX has a NIOSH-approved high-capacity high-efficiency particulate air (HEPA)/vapor filter for a half mask and a HEPA particulate filter for the full facemask. The product does not impair vision or communication. The product allows for the miner to simultaneously wear the issued hardhat with a headlamp.
- (m) The CleanSpace EX uses technology placing the filter housing and fan assembly above the shoulders to reduce ergonomic restrictions, freeing the miner from having to wear the fan and filter unit around the waist.
- (n) There are no hose attachments to the unit, which could create added hazards.

The petitioner proposes the following alternative method:

- (a) The equipment will be examined at least weekly by a qualified person according to 30 CFR 75.512 and examination results will be recorded weekly and records will be available for examination for one year.
- (b) CleanSpace EX units will be charged outby the last open crosscut and will utilize the manufacturer approved battery charger.
- (c) A qualified person under 30 CFR 75.151 will monitor for methane as is required by the standard in the affected areas of the mine.
- (d) Employees will be trained on how to properly use and take care of the CleanSpace EX according to manufacturer guidelines.
- (e) Qualified miners will receive training regarding the information in the Decision and Order before using the equipment in the relevant part of the mine. A record of the training will be kept and available upon request.
- (f) Within 60 days of the Decision and Order becoming finalized, the petitioner will submit proposed revisions to 30 CFR 75.370, mine ventilation, to be approved under the 30 CFR part 48 training plan by the Coal Mine Safety and Health District Manager. The revisions will specify initial and refresher training. When the training is conducted, the MSHA Certificate of Training (Form 5000-23) will be completed. Comments will be made on the certificate to note non-permissible testing equipment training.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Jessica D. Senk,

Director,

Office of Standards, Regulations, and Variances.